

PROCEEDINGS, COMBINED COMMON COUNCIL MEETING
TUESDAY, APRIL 19, 2011, 7:00 P.M.

CITY OF OAK CREEK
MILWAUKEE COUNTY

CITY CLERK SWEARS IN NEWLY-ELECTED OFFICIALS.

City Clerk Pamela Bauer swore in to office 1st District Alderperson Daniel Jakubczyk, 3rd District Alderperson Stephen Scaffidi, and 5th District Alderperson Kenneth A. Gehl.

1. Mayor Bolender called the meeting to order at 7:00 p.m. On roll call, the following alderpersons were present: Ald. Jakubczyk, Ald. Bukiewicz, Ald. Scaffidi, Ald. Toman, Ald. Gehl, and Ald. Michalski. Also present were: City Attorney Lawrence Haskin, City Administrator Gerald Peterson, Finance Director Mark Wyss, Utility Engineer Michael Simmons, Community Development Director Doug Seymour, Police Chief John Edwards, Acting City Engineer/Building Commissioner Michael Simmons, and City Clerk Pamela Bauer.
2. The meeting began with the Pledge of Allegiance being said by all present.
3. **ALD. SCAFFIDI ELECTED COMMON COUNCIL PRESIDENT.**

City Attorney Lawrence Haskin explained the procedure for election of a Common Council President. The Mayor then opened the floor for nominations. Ald. Jakubczyk nominated Ald. Scaffidi. Ald. Toman, seconded by Ald. Jakubczyk, moved to close the nominations. Motion, with second agreeing, was amended to close the nominations and to cast a unanimous ballot for Ald. Scaffidi. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye. By a unanimous vote of the Common Council, Ald. Scaffidi was elected Common Council President.

4. **DIRECTED HELD: COMMON COUNCIL PRESIDENT'S ALDERMANIC APPOINTMENTS.**

The Common Council President's aldermanic appointments as follows were directed held:

- a. Personnel Committee (minimum of 2) – 3
- b. Capital Improvements Committee – 3
- c. License Committee -3
- d. Plan Commission Representatives – 2
- e. Board of Health Representative – 1
- f. Emergency Government Committee Representative – 1 (plus Council President)
- g. Parks, Recreation and Forestry Commission – 1
- h. Cable Advisory Committee – 1
- i. Traffic and Safety Commission – 1

5. **DIRECTED HELD: MAYOR'S ALDERMANIC APPOINTMENTS.**

The Mayor's aldermanic appointments as follows were directed held:

- a. Library Board - 1
- b. Community Development Authority (CDA) -2
- c. Community Center Board of Directors - 1
- d. ad hoc Bender Park Committee - 2
- e. Small Claims Committee – 1
- f. Water & Sewer Utility Commission – 1

g. Finance Committee - 3

6. **PRESENTED AND ADOPTED: COUNCIL PROCLAMATION 11-04, GRATITUDE TO CLIFFORD NELSON FOR DEDICATED SERVICE TO CITY OF OAK CREEK AS MEMBER OF TRAFFIC AND SAFETY COMMISSION.**

Ald. Gehl, seconded by Ald. Scaffidi, moved to adopt Council Proclamation 11-04, gratitude to Clifford Nelson for dedicated service to the City of Oak Creek as a member of the Traffic and Safety Commission. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

7. **PRESENTED AND ADOPTED: COUNCIL PROCLAMATION 11-05, GRATITUDE TO HOLLY J. SLOMSKI FOR DEDICATED SERVICE TO CITY OF OAK CREEK AS MEMBER OF THE BOARD OF HEALTH.**

Ald. Gehl, seconded by Ald. Jakubczyk, moved to adopt Council Proclamation 11-05, gratitude to Holly J. Slomski for dedicated service to the City of Oak Creek as a member of the Board of Health. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

8. **PUBLIC HEARING HELD TO CONSIDER CONDITIONAL USE PERMIT FOR PROPERTY AT 8051 S. HOWELL AVE. TO ALLOW AN AUTO SERVICE CENTER FOR TIRES PLUS TOTAL CAR CARE.**

A public hearing was held to consider a conditional use permit for the property at 8051 S. Howell Ave. to allow for an auto service center for Tires Plus Total Car Care (see Item 9 for action on this hearing).

9. **PRESENTED AND ADOPTED: ORDINANCE NO. 2621, AUTHORIZING ISSUANCE OF CONDITIONAL USE PERMIT FOR AUTOMOTIVE SERVICE CENTER FOR TIRES PLUS FOR PORTION OF PROPERTY AT 8051 S. HOWELL AVE.**

Ald. Bukiewicz, seconded by Ald. Michalski, moved to adopt Ordinance No. 2621, authorizing the issuance of a conditional use permit for an automotive service center for Tires Plus for a portion of the property at 8051 S. Howell Ave. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, no; and Ald. Michalski, aye.

10. **PUBLIC HEARING HELD TO CONSIDER REQUEST BY OAK CREEK ELDERLY, LLC, TO AMEND EXISTING CONDITIONAL USE PERMIT (ORDINANCE NO. 2515) FOR PROPERTY AT 8841 S. 13TH ST. TO ALLOW AN INCREASE IN NUMBER OF ASSISTED LIVING UNITS FROM 44 TO 51 UNITS.**

A public hearing was held to consider a request by Oak Creek Elderly, LLC to amend the existing conditional use permit (Ordinance No. 2515) for the property at 8841 S. 13th St. to allow for an increase in the number of assisted living units from 44 units to 51 units (see Item 11 for action on this hearing).

11. **PRESENTED AND ADOPTED: ORDINANCE NO. 2622, AMENDING CONDITIONAL USE PERMIT FOR PROPERTY AT 8841 S. 13TH ST. TO INCREASE TOTAL ALLOWABLE NUMBER OF DWELLING UNITS FROM 44 TO 51 (OAK CREEK ELDERLY, LLC).**

Ald. Michalski, seconded by Ald. Scaffidi, moved to adopt Ordinance No. 2622, amending the conditional use permit for the property at 8841 S. 13th St. to increase the total allowable number of dwelling units from 44 to 51 (Oak Creek Elderly). On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

12. **COUNCIL CONCURS WITH MAYOR'S APPOINTMENT OF AIDA T. OLEN TO BOARD OF HEALTH.**

Ald. Jakubczyk, seconded by Ald. Scaffidi, moved to concur with the Mayor's appointment of Aida T. Olen, 1110 W. Mockingbird Ln. to the Board of Health for a 3-year term to expire 4/2014 (to fill an existing vacancy). On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

13. **PRESENTED AND ADOPTED: RESOLUTION NO. 11114-041911, APPROVING TAX INCREMENTAL DISTRICT NO. 10 FINANCE DEVELOPMENT AGREEMENT.**

Ald. Jakubczyk, seconded by Ald. Scaffidi, moved to adopt Resolution No. 11114-041911, a Resolution approving Tax Incremental District No. 10 Finance Development Agreement (Bucyrus Wisconsin Property). On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

14. **INFORMATIONAL: SUMMARIZED FINANCE STATEMENTS PERIOD ENDING MARCH 31, 2011.**

Finance Director Mark Wyss provided information of summarized finance statements for the period ending March 31, 2011.

15. **COUNCIL APPROVES VENDOR SUMMARY REPORT.**

Ald. Gehl, seconded by Ald. Scaffidi, moved to approve the 2011 Vendor Summary Report in the amount of \$406,022.88. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

16. **COUNCIL APPROVES PURCHASE OF REPLACEMENT BODY ARMOR FOR TWENTY (20) OFFICERS FROM ADVANTAGE POLICE SUPPLY AT TOTAL COST OF \$15,000.**

Ald. Scaffidi, seconded by Ald. Gehl, moved to approve the Police Department's purchase of replacement body armor for twenty (20) officers from Advantage Police Supply at a total cost of \$15,000. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

17. **PRESENTED AND ADOPTED: RESOLUTION NO. 11111-041911, APPROVING CSM FOR PROPERTY AT 8051 & 8081 S. HOWELL AVE. (GIUFFRE XX, LLC), SUBJECT TO LETTER OF CREDIT IN AMOUNT OF \$40,000 FOR WATER MAIN INSTALLATION BEING ON FILE PRIOR TO RECORDING OF CSM.**

Ald. Bukiewicz, seconded by Ald. Scaffidi, moved to adopt Resolution No. 11111-041911, approving a certified survey map for the property at 8051 & 8081 S. Howell Ave., subject to a letter of credit in the amount of \$40,000 for the water main installation being on file prior to recording of the certified survey map (Giuffre XX, LLC). On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, no;

and Ald. Michalski, aye.

18. **PRESENTED AND ADOPTED: RESOLUTION NO. 11112-041911, IN SUPPORT OF MILWAUKEE METROPOLITAN SEWERAGE DISTRICT'S ACQUISITION OF PROPERTY AT 8920 S. WILDWOOD DR.**

Ald. Bukiewicz, seconded by Ald. Scaffidi, moved to adopt Resolution No. 11112-041911, in support of the Milwaukee Metropolitan Sewerage District's (MMSD) acquisition of the property at 8920 S. Wildwood Dr. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

19. **PRESENTED AND ADOPTED: RESOLUTION NO. 11109-041911, PRELIMINARY RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POWERS FOR INSTALLATION OF WATER MAIN AND SANITARY SEWER IN E. FITZSIMMONS RD. FROM CHICAGO RD. TO 900 FEET WEST AND TO ESTABLISH PUBLIC HEARING DATE FOR MAY 17, 2011.**

Ald. Toman, seconded by Ald. Scaffidi, moved to adopt Resolution No. 11109-041911, a preliminary resolution declaring intent to exercise special assessment powers for the installation of water main and sanitary sewer in E. Fitzsimmons Rd. from Chicago Rd. to 900 feet west, and to establish a public hearing date for May 17, 2011. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

20. **COUNCIL AWARDS NICHOLSON STORM SEWER IMPROVEMENT CONTRACT TO DOLSON, INC. AT ESTIMATED COST OF \$60,013.70.**

Ald. Gehl, seconded by Ald. Scaffidi, moved to award the Nicholson Storm Sewer Improvement contract to the lowest responsive, responsible bidder, Dolson, Inc., at an estimated cost of \$60,013.70 (Project No. 10015). On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

21. **COUNCIL AWARDS 2011 ROAD IMPROVEMENTS UNIT PRICE CONTRACT TO PAYNE & DOLAN, INC., AT ESTIMATED COST OF \$616,321.28.**

Ald. Jakubczyk, seconded by Ald. Bukiewicz, moved to award the 2011 Road Improvements unit price contract to the lowest responsive, responsible bidder, Payne & Dolan, Inc., at an estimated cost of \$616,321.28 (Project Nos. 11028 through 11038). On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

22. **PRESENTED AND ADOPTED: RESOLUTION NO. 11108-041911, RESOLUTION OF NECESSITY FOR ACQUISITION OF LANDS FOR PUBLIC STREET PURPOSE, TEMPORARY EASEMENTS FOR GRADING, AND AUTHORIZING NEGOTIATION FOR SUCH ACQUISITION AND CONDEMNATION, IF NECESSARY, FOR PROPERTIES AT 8610 S. 13TH ST. (829-9995-006), AND 8675 S. 13TH ST. (830-9985), BEING PART OF PROJECT NO. 07025, W. PUETZ RD. RECONSTRUCTION.**

Ald. Michalski, seconded by Ald. Bukiewicz, moved to adopt Resolution No. 11108-041911, a resolution of necessity of lands for public street purpose, temporary easements for grading, and authorizing negotiation for such acquisition and condemnation, if necessary, for properties located at 8610 S. 13th St. (829-9995-006), and 8675 S. 13th St. (830-9985), being part of

Project No. 07025, W. Puetz Rd. Reconstruction. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

23. COUNCIL ENTERS INTO AGREEMENT WITH MILWAUKEE COUNTY FOR PROPOSED IMPROVEMENTS TO PUETZ ROAD / 13TH STREET INTERSECTION.

Ald. Michalski, seconded by Ald. Bukiewicz, moved to enter into an agreement with Milwaukee County for the proposed improvements to the Puetz Road / 13th Street Intersection (Project No. 07025). On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

24. PRESENTED AND ADOPTED: RESOLUTION NO. 11113-041911, AUTHORIZING REHABILITATION OF MINNESOTA AVENUE.

Ald. Bukiewicz, seconded by Ald. Scaffidi, moved to adopt Resolution No. 11113-041911, a resolution authorizing the rehabilitation of Minnesota Avenue. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

25. COUNCIL GRANTS OPERATOR'S LICENSES.

Ald. Jakubczyk, seconded by Ald. Gehl, moved to grant an Operator's license to:

- Yvetta Llanas, 3129 W. Mangold Ave., Greenfield (PDQ)
- Lisandra V. Rodriguez, 1123 Park Ave., South Milwaukee (Ryan Road Mobil)
- Leah S. Carlson, 8871 S. Oak Park Dr., Oak Creek (Erv's Mug)

On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

26. COUNCIL APPROVES CHANGE OF AGENT ON CLASS A COMBINATION LICENSE FOR OAK CREEK OASIS, LLC DBA OAK CREEK OASIS, 9510 S. 27TH ST. FROM TAMMY BEECH TO SARAH A. MIDDLETON, 3320 6 MILE RD., RACINE.

Ald. Jakubczyk, seconded by Ald. Bukiewicz, moved to approve a change of agent on the Class A Combination license for Oak Creek Oasis, LLC, doing business as Oak Creek Oasis, 9510 S. 27th St., from Tammy Beech to Sarah A. Middleton, 3320 6 Mile Rd., Racine. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

27. COUNCIL GRANTS TRANSIENT MERCHANT LICENSE TO SCHWAN'S HOME SERVICE AND APPROVES SALESPERSONS.

Ald. Jakubczyk, seconded by Ald. Bukiewicz, moved to grant a transient merchant license to Schwan's Home Service, 9740 S. 58th St., Franklin, to solicit sales for pre-packaged frozen foods and to approve the following salespersons:

- Ricky J. Dobrenski, 9850 S. 89th St., Franklin
- April L. Fuchs, 9020 Corliss Ave., Sturtevant
- Dale E. Willms, 5936 Douglas Ave., Racine
- Susan D. McDaniel, 5932 85th St., Pleasant Prairie
- Russell J. Hein, 3628 Hwy H, Franksville

On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

28. **DIRECTED HELD: TRANSIENT MERCHANT APPLICATION SUBMITTED BY FIELD HADLEY, 1955 S. 55TH ST., WEST ALLIS, SELLING PRE-PACKAGED FROZEN FOODS FOR SCHWAN'S HOME SERVICE.**

Action on the Transient Merchant application submitted by Field Hadley, 1955 S. 55th St., West Allis, selling pre-packaged frozen foods for Schwan's Home Service was directed held to the next License Committee meeting.

29. **CLOSED SESSION HELD.**

Ald. Scaffidi, seconded by Ald. Bukiewicz, moved to convene in Closed Session at 7:55 p.m., pursuant to Wisconsin State Statutes to discuss the following:

- a. Section 19.85 (1)(g) to consider the Excessive Assessment claims of Farm & Fleet of Janesville, Inc., and Cobalt Investments, LLC, dba Cummins NPower.
- b. Section 19.85 (1)(e) to discuss possible acquisition of property at 2121 W. Drexel Avenue for the widening and reconstruction of W. Drexel Avenue.

On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

30. **COUNCIL RECONVENES INTO OPEN SESSION.**

Ald. Scaffidi, seconded by Ald. Gehl, moved to reconvene into Open Session at 8:16 p.m. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.


31. **COUNCIL TAKES ACTION ON CLOSED SESSION ITEMS.**

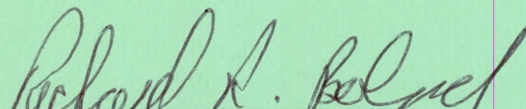
- a. Ald. Scaffidi, seconded by Ald. Michalski, moved to deny the Excessive Assessment claims of Farm & Fleet of Janesville, Inc. and Cobalt Investments, LLC, dba Cummins NPower and to direct the Clerk to issue a Notice of Disallowance. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.
- b. Ald. Scaffidi, seconded by Ald. Jakubczyk, to accept the counteroffer from Henry H. Barg, which provides that the City has the right to cancel the transaction if the remediation costs exceed \$400,000 and which provides further that the City's contribution to the seller's attorney fees of \$5,000 would only be paid if the transaction closes. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

ADJOURNMENT.

Ald. Scaffidi, seconded by Ald. Jakubczyk, moved to adjourn this meeting at 8:20 p.m. On roll call, the vote was as follows: Ald. Jakubczyk, aye; Ald. Bukiewicz, aye; Ald. Scaffidi, aye; Ald. Toman, aye; Ald. Gehl, aye; and Ald. Michalski, aye.

ATTEST:


Pamela S. Bauer, CMC, City Clerk


Richard R. Bolender, Mayor